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July 28, 2014

Via ECF Delivery:

Hon. Jesse M. Furman
United States District Judge
United States District Court
Southern District of New York

**RE: BAILEY & GLASSER, LLP'S SUBMISSION FOR APPOINTMENT TO
PLAINTIFFS' EXECUTIVE COMMITTEE,
IN RE: GENERAL MOTORS LLC IGNITION SWITCH LITIGATION,
Case No. 1:14-md-2543 (JMF)**

Dear Judge Furman:

The law firm of Bailey & Glasser LLP (sometimes, "B&G") respectfully requests the opportunity to serve on the Plaintiffs' Executive Committee in this case as contemplated by the Court's July 18, 2014 Order No. 5. B&G brings to the table an experienced and talented team of attorneys who have spent much of the past 5 years of their respective careers litigating nationwide auto defect claims against Toyota. In that litigation, B&G was the only law firm to have individuals on both executive committees established by the court. Judge Selna appointed Benjamin L. Bailey to serve on the Plaintiffs' Lead Counsel Committee for the Economic Loss Class Actions on May 14, 2010, and appointed Eric B. Snyder to serve on the Plaintiffs' Liaison Committee for Personal Injury/Wrongful Death Cases on June 27, 2013. Those same individuals are prepared, and desire, to participate here in similar roles.

Knowledge and experience in class and complex litigation, and automobile defect litigation

Experience in class and complex litigation, and knowledge of the relevant law, are generally considered the most important factors in appointing lead counsel in an MDL. *See, e.g., In re Terazosin Hydrochloride*, 220 F.R.D. 672, 702 (S.D. Fla. 2004) (explaining that the "most persuasive" factor in choosing lead counsel pursuant to Rule 23(g) may be proposed counsel's "experience in, and knowledge of, the applicable law in this field."). The Firm meets both of these criteria. In addition to its experience in Toyota, the Firm has successfully represented plaintiffs, including plaintiff classes and the State of West Virginia, in consumer, antitrust and similar matters. For example, B&G successfully represented the State of West Virginia in the Microsoft Anti-trust Litigation. B&G led a national class against H&R Block on behalf of consumers challenging the legality of a refund anticipation loan product. B&G successfully litigated a class action under West Virginia's rent-to-own statute against Rent-A-Center. Also,

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B&G is currently serving as lead and liaison counsel on behalf of a nationwide class of consumers in the Northern District of West Virginia pertaining to violations of the Telephone Consumer Protection Act.

In Toyota, B&G demonstrated its commitment and its attitude toward leadership roles in huge MDLs. B&G attorneys and staff (excluding co-counsel not involved with B&G in this litigation) devoted over 7,900 common benefit hours to the Toyota economic loss litigation. They have spent, to date, well over a thousand hours on common benefit work related to the remaining personal injury and wrongful death cases in the MDL, which are now stayed while the parties discuss settlement. In addition, B&G spent over 11,000 hours on a state-court wrongful death Toyota case which, by virtue of its extensive discovery and trial preparation, became a *de facto* bellwether and settled on the eve of trial. B&G advanced over \$1.2 million in expenses in the Toyota litigation.

The common benefit work the Firm did in Toyota was substantial. B&G lawyers – primarily Mr. Bailey, Mr. Snyder and seasoned auto-products lawyer Robert Lorea who would also be involved in this case – took and defended approximately 30 depositions of named plaintiffs, Toyota personnel, experts and “other similar incident” witnesses. B&G's team participated directly in the drafting of the Consolidated Amended Complaint, and found and worked with Plaintiffs’ expert who gave the technical tutorial on automotive electronics to Judge Selna. They also participated in drafting portions of the settlement agreement, and Mr. Bailey served on the allocation committee.

In the state court wrongful death Toyota matter, B&G lawyers took 17 depositions of Toyota witnesses, took and defended 26 expert depositions and obtained hundreds of thousands of pages of Toyota documents. Pursuant to the “sharing” provisions of the protective order negotiated by counsel and entered by the court, all of that discovery was shared with the MDL.

Even the defense bar has taken note of the work the Firm has done in the Toyota litigation and its other class action cases. In a report entitled *The New LawsUIT Ecosystem*, by the U.S. Chamber Institute for Legal Reform in October 2013, the authors identified B&G, and Mr. Snyder in particular, as one of the “Top National Plaintiffs’ Class Action Firms” with specialties in “Automobile (Sudden Acceleration), Mortgage Lending and Consumer Goods and Services.”

Firm resources and willingness to commit them to this litigation

Counsel know first-hand the level of commitment they are making by filing this application – in both time and money. They stand ready to meet it. Bailey & Glasser, founded in 1999, is a law firm of 47 attorneys headquartered in Charleston, West Virginia, with offices in

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several major metropolitan areas, including New York, Boston, Washington, DC and greater Philadelphia. The firm is well established, stable, and has the human and financial capital to fulfill the responsibilities attendant to a leadership role in this case.

B&G represents diverse clients – corporations, bankruptcy trustees, debtors and creditors, injured individuals, governmental agencies and criminal defendants. Its lawyers have closed energy transactions totaling billions of dollars, obtained multi-million dollar verdicts and settlements, successfully defended their corporate clients and obtained acquittals for criminal defendants on trial for crimes ranging from tax evasion to murder.

This diversity of practice has obvious benefits. In this case, for example, Kevin Barrett, the Firm's lead bankruptcy partner located in New York, is already involved and will continue to be if the Court grants this application.

Ability to work well with others

An additional factor identified by courts, including this one, in appointing lead counsel is the ability to command the respect of other plaintiffs' counsel and the ability to work cooperatively with other counsel and the court. This factor takes on particular import in a case as large as this one. Messrs. Bailey and Snyder have worked with and against, and have personal and professional relationships with, many of the firms and attorneys involved in this litigation.

Counsel enjoy the opportunity to work cooperatively with excellent lawyers. By way of example, last summer, three Toyota cases (including the Firm's state court case) were set for trial, all involving the same vehicle, and all within the same two or three months. Messrs. Bailey and Snyder worked extensively with the lead lawyers in the other two cases, and with defense counsel, to coordinate dozens of expert depositions that had to be taken on a very tight schedule. This coordination resulted in the cross-noticing of several expert depositions, and an orderly (but still intense) few months of depositions.

Work already done to further the litigation by an experienced team

B&G has already made a significant effort to identify, investigate and advance the potential claims against in this case. Firm attorneys have worked nearly 300 hours on the matter. They have also contributed financially to the matter and have incurred approximately \$150,000 in expenses so far. This work includes time addressing bankruptcy issues, researching applicable law, factual investigation and interacting with clients and potential clients.

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Benjamin L. Bailey is a founding partner of the Firm. Mr. Bailey is a former federal prosecutor and spent four years as counsel to the Governor of West Virginia. He is a permanent member of the Judicial Conference of the U.S. Court of Appeals for the Fourth Circuit, a founding member of the Charleston Chapter of the American Inns of Court, and a Fellow of the American Bar Association. He serves on the national board of the Public Justice Foundation. He is AV rated in Martindale Hubbell. Chamber U.S.A.'s Guide to America's Leading Business Lawyers rates him in the first tier of General Commercial Litigators in West Virginia, and described him as an "outstanding litigator and go-to guy."

Eric B. Snyder is a general partner in the Firm. Mr. Snyder has a bachelor's degree in Engineering from Penn State, and that engineering knowledge gives him a solid foundation for the extensive work he often does with technical experts. He has been class counsel in several cases, has tried cases involving technical engineering issues, and represents individuals in catastrophic cases.

Both Mr. Bailey and Mr. Snyder live and maintain offices in Charleston, West Virginia – the heart of Appalachia. Appalachia is widely recognized as a cultural region of the United States, and granting the Firm's application would serve the goal of geographic diversity.

In conclusion, appointment of Messrs. Bailey and/or Mr. Snyder to the Executive Committee in this case would be consistent with the seven factors set forth in the Court's Order No. 5, the procedures set forth in the *Manual for Complex Litigation*, and the factors codified in Fed. R. Civ. P. 23(g). It would also comport with the rule of reason to have a firm whose lawyers spent years learning this type of litigation, and who successfully played key roles in it before, in a position where those lawyers can use their considerable knowledge and skill to benefit the plaintiffs and the class here. Counsel respectfully requests a hearing before the Court to address this motion.

Respectfully Submitted,

/s/ Benjamin L. Bailey
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/s/ Eric B. Snyder
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cc: All Counsel of Record (Via ECF Notification)